"Most topics are introduced or followed by a brief expository passage" suggesting the possibilities of the topic, "though the main part of the material may, and must be, used inductively."

While the author contemplates that the student will work out in his own way, very largely, the problems suggested by the materials furnished, yet he has suggested a method of working out the questions as presented by the evidence in two cases, those of *Commonwealth* v. *Umilan,* 177 Mass. 582, and *Hatchett v. Commonwealth,* 76 Va. 1026, which is well worth studying, and present well the author's ideas of how the evidence in complicated cases may be rationally analyzed and conclusions reached, not intuitively, nor by giving effect to general impressions, but as the result of the careful and methodical consideration of each factor in the problem presented by the evidence.

Aside from the expository passages referred to, the material presented is a collection of the reports of actual cases which give the testimony upon which they were determined, gathered from various sources, arranged in an orderly way to develop the various topics.

Whether or not Professor WIGMORE'S prophecy that rules of admissibility are, in the future, to be regarded as of less and less importance, and the problem of how to deal with evidence produced, increasingly important, shall come true or not, this work is certain to claim the careful attention of the thoughtful lawyer and the serious student of the law. V. H. L.

HANDBOOK OF THE LAW OF MUNICIPAL CORPORATIONS. By Roger W. Cooley, LL.M., Professor of Law, University of North Dakota. (Hornbook Series) pp. xii, 711. St. Paul, Minn. West Publishing Company. 1914.

This book is "designed especially for the use of students," and the aim of the author, as stated in the preface, is "to give a clear and concise statement of those fundamental principles which must be and are applied in any attempt to formulate or construe the law of Municipal Corporations as found in the various statutes." This task, which the author has thus outlined for himself, is gigantic, because first, the classifications in this subject are still very much unsettled, there is much dispute about some of the basic principles of the law, and the exact limits to many of the fundamental principles are still undefined; second, the field covered is so broad as to make it difficult, if not impossible, to condense even the general principles of the subject into the small compass of this book without leading the reader into misconceptions of the law.

Considering the nature of the task it is not surprising that even a writer of some experience, as is the author of this book, in condensing the material of the subject should have made some general statements that are inaccurate and misleading, if not actually untrue. A good example of such a statement is furnished by certain portions of Chapter III, in which the difficult subject of "Legislative Control" is discussed. In Section 24 of that chapter the black letter text reads as follows:

"In the absence of constitutional inhibition, the Legislature has unlimited power of control over those municipal officers who are charged with the performance of governmental functions devolved upon it (sic), but cannot interfere with those officers who perform functions of a distinctly municipal character."

The latter part of this sentence which indicates that in the absence of express constitutional inhibition the legislatures of the various states cannot interfere with those officers who are charged with the performance of corporate or municipal functions, is clearly not a fair statement of the law. At best this could be true only in those states which recognize the right of local self-government for municipal corporations as existing in the absence of an express constitutional guarantee. The courts of only Michigan, Indiana, Kentucky, Texas and perhaps one or two other states recognize the existence of the right by implication. The courts of the United States and of Pennsylvania, Massachusetts, New Jersey, Delaware, and Nebraska, at least, explicitly deny the right unless expressly guaranteed by the constitution, and the courts of many other states have rendered decisions which seem to commit them to such a position when the question is squarely presented to them.

The effect of the quotation cited will be to lead the uninitiated who read it to believe the doctrine stated therein is recognized in practically every state in the country, when one of the greatest writers on the subject of municipal corporations has stated his opinion to be that it is recognized in but a small minority of the states that have considered the question. See DILLON, MUNICIPAL CORPORATIONS, § 98, and cases cited to note 3 on page 156.

Not only does the author err in stating the doctrine as universal when it is probably recognized by but a small minority of the states, but he also defines it in such sweeping terms that unless one give a very technical meaning to the word "interfere" the statement will be misleading as to the law in even those states which recognize the existence of the right of local self-government in the absence of an express constitutional guarantee. The courts of Michigan, for instance, recognize the power and authority of the legislature to create offices and fix their corporate duties and to take these duties from one officer and confer them on another chosen by the people of the locality or appointed by an officer chosen by them. (*Attorney General* v. *Detroit,* 29 Mich. 108), to fix the length of the terms of such officers (*Stow* v.*Grand Rapids,* 79 Mich. 595) and to fix the salaries of local officers (*Speed* v. *Detroit,* 100 Mich. 92). The quotation designated will certainly lead the student, for whose especial use this book is prepared, to the conclusion that a legislature cannot pass laws of the sort suggested affecting local offices and officers.

This misconception is helped rather than hindered by certain statements in the text which follow and are intended to explain the black letter heading. This text reads as follows:

"The state, therefore, through the Legislature, has the right to the appointment (sic), election, tenure of office, and compensation of all officers that may be required to execute its general laws or to perform functions per-

taining to the government of the state and not of a municipal nature. On the other hand, it is equally well recognized that, in view of the fundamental right to local self-government, officers exercising purely municipal and local functions should be free from legislative control."

These sentences clearly encourage the misconception that the legislature cannot fix the compensation or terms of the municipal officer who has charge of only corporate or local affairs.

This is the most glaring example of misleading statement which the reviewer has found. Another of less consequence is found on pages 211 and 212, by which the reader is led to suppose that there is no substantial conflict of authority over the principle that there can be no de facto officer without a de jure office. This is not true, for while the doctrine as stated is laid down in *Norton* v. *Shelby County,* 118 U. S. 425, which is followed by the majority of the cases on this subject, still there is a well recognized and vigorous dissent from this doctrine set forth in *State* v. *Gardner,* 54 Ohio St. 24, and in several cases supporting this one. No discussion of this situation seems to be complete without mention of or reference to this Ohio case, yet we find none in the book under discussion.

There are other instances of this sort of inaccuracies and misleading statements, though perhaps none more conspicuous than those mentioned. This is not true of every part of the book; some sections, indeed, contain a fairly clear and accurate presentation of portions of the law; an example of this sort of treatment is found in the author's discussion of a "public purpose" on pages 407 to 442, inclusive. On the whole, however, this book seems to possess in a greater degree than even the ordinary treatise that no uncommon quality of modern legal texts, *i. e.,* that it is a rather incomplete and not too logically arranged digest of rules aplying to given situations rather than a scholarly and sympathetic treatment of the problems presented by the subject. These defects, whether due to the inherent difficulties of the task or whatever else, detract materially from the value of the book as a student's guide.

A rough estimate places the number of American cases on the subject here treated somewhere between forty and fifty thousand. The author has cited about seven thousand of these. This and the fact that there is a dearth of cases decided within the last ten years, a serious fault in a book on a rapidly growing subject, will greatly impair its value as a work for the use of the practitioner.

The last ninety-three pages of the book are taken up with the discussion of "quasi-corporations." In these pages the author considers not only the nature of such corporations, but also the rules of law governing their powers, the exercise thereof and the legislature's control over them. This seems to be a rather disproportionate amount of space to devote to this portion of the subject. As the rules of law respecting legislative control over such corporations, as well as those governing their powers and their exercise, are similar and in most cases the same as those governing the true municipal corporation in its aspect as a governmental agent, it seems that a separate treatment of the powers and liabilities of quasi-corporations might have

been dispensed with and the space thus saved could have been profitably devoted to a fuller examination of some of the more difficult problems of the general subject of municipal corporations which the author slips over easily or fails to notice at all. G. S.

CONSULAR TREATY RIGHTS AND COMMENTS ON THE "MOST FAVORED NATION" CLAUSE. By Ernest Ludwig, I. and R. Consul for Austria-Hungary, Cleveland, Ohio. The New Werner Company, Akron, Ohio, 1913, pp. 239.

Among the most important features of modern commercial treaties is the inclusion in a large number of cases of a clause providing for "most favored nation" treatment. By means of this device it is possible to incorporate subsequent commercial developments into the substance of any treaty without the delay attendant upon the ratification of a new convention. In this manner a desirable uniformity in international commerce is being developed. However, according as the national policy dictates a protective tariff or free trade, two contrasted interpretations of the "most favored nation" clause have arisen. By the earlier of these views, the American, "most favored nation" treatment is only to be granted in reciprocity for similar treatment, while the later Continental or English attitude demands an unconditional application of the clause. The present treatise, addressed to the various probate judges of Ohio and Lower Michigan and primarily concerned with consular privileges, is to all intents and purposes a brief in favor of the Continental standpoint, and this for the reason that nearly all consular rights under our treaties with Austria-Hungary are to be derived from the "most favored nation" clause.

After citing the text of the provisions in the treaties between the United States and Austria-Hungary which relate to the rights of consuls, the author gives in the form of a brief the relevant cases, some of them rather unimportant (vide the cases on pp. 58, 60 which have been appealed). There follows a criticism of the United States Supreme Court decision, *in re Rocca* v. *Thompson,* and of the opinion of *C. Cushing* which sets forth the American attitude.

Despite the fact that the author adduces considerable material tending to show that the American position has not been entirely consistent, his argument remains at the end rather inconclusive for the reason that he does not seem to have been able to dislodge its fundamental assumption, namely, that, as commercial treaties are based upon reciprocity of mutual advantage, the same principle should apply to the "most favored nation" clause. We can, furthermore, scarcely agree to the author's conclusion on p. 168 that CUSHING in his opinion maintains that "the mutual benefits stipulated in treaties *must* be equivalent." All this, however, hardly does justice to the work itself, for, although not written in the most elegant style nor as systematically arranged as it should be, it represents a considerable amount of painstaking compilation and is well-worthy the careful attention of any one interested in this mooted question. H. E. Y.